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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/755,798	01/05/2001	Richard D. Frazer	G00284/US	5281
35758 7590 09/17/2007 GKN DRIVELINE NORTH AMERICA, INC 3300 UNIVERSITY DRIVE AUBURN HILLS, MI 48326			EXAMINER BINDA, GREGORY JOHN	
			ART UNIT 3679	PAPER NUMBER
			MAIL DATE 09/17/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>		<b>Applicant(s)</b>	
	09/755,798		FRAZER ET AL.	
	<b>Examiner</b>		<b>Art Unit</b>	
	Greg Binda		3679	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 02 August 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 August 2007 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

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*Response to Amendment*

1. The amendment filed August 28, 2007 is objected to because the changes to the specification are directed to numbered paragraphs., but the paragraphs in the specification are unnumbered.

*Drawings*

2. The replacement drawings are objected to because they include reference numeral 45 which is not mentioned in the description. The grounds for this objection exists only because the changes to the specification in the amendment could not be entered.

*Specification*

3. The specification is objected to as failing to provide proper antecedent basis for the “rubber” recited in claims 2, 9, 16 & 22. The grounds for this objection exists only because the changes to the specification in the amendment could not be entered.

*Claim Rejections - 35 USC § 102*

4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
5. Claims 1-3, 5, 8-10, 12, 15-17 & 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Blee, US 5,379,856. Fig. 4 shows a sealing boot 40a that can be used with a constant velocity joint and an interconnecting shaft, the boot comprising: a first end 54a for

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mating with a constant velocity joint and a second end 50a for mating with an interconnecting shaft. In col. 6, lines 15-40, the boot 40a is disclosed as comprising a body portion 70a manufactured from closed cell material. The inner cavity of the sealing boot 40a has a circumference that is smaller than that of an interconnecting shaft with a circumference that is greater than that of the inner cavity.

6. Claims 1-5 & 8-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Ayers, US 4,500,151. Fig. 1 shows a sealing boot 17 that can be used with a constant velocity joint and an interconnecting shaft, the boot comprising: a first end for mating with a constant velocity joint and a second end for mating with an interconnecting shaft. In col. 3, lines 23 & 24 and col. 4, lines 10-13, the boot 17 is disclosed as comprising a body portion manufactured from silicone and closed cell material. The inner cavity of the sealing boot 17 has a circumference that is smaller than that of an interconnecting shaft with a circumference that is greater than that of the inner cavity.

7. Claims 1-5, 8-12 & 15-19 are rejected under 35 U.S.C. 102(b) as being anticipated by Rabe, DE 296 17 276 (all references below are taken from English language equivalent US 6,152,641). Fig. 1 shows a sealing boot 21 that can be used with a constant velocity joint and an interconnecting shaft, the boot comprising: a first end for mating with a constant velocity joint and a second end for mating with an interconnecting shaft. In col. 2, lines 35-57, the boot 21 is disclosed as comprising a body portion manufactured from closed cell silicone material. The

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inner cavity of the sealing boot 21 has a circumference that is smaller than that of an interconnecting shaft with a circumference that is greater than that of the inner cavity.

*Claim Rejections - 35 USC § 103*

8. Claims 6, 7, 13, 14, 20 & 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rabe. Rabe shows a foam sealing boot 21 comprising all the limitations of the claims but does not expressly disclose the foam having a density in the range from  $10 \text{ kg/m}^3$  to  $27 \text{ kg/m}^3$  and/or being heat resistant to  $450^\circ\text{F}$ . However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide foam with a density in the range from  $10 \text{ kg/m}^3$  to  $27 \text{ kg/m}^3$  and/or being heat resistant to  $450^\circ\text{F}$ , since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Kulling*, 897 F.2d 1147, 14 USPQ2d 1056.

9. Claims 6, 7, 13, 14, 20 & 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over any one of Blee and Ayers for the same reasons noted immediately above.

10. Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over anyone of Rabe, Blee and Ayers in view of Goldowsky, US 3,911,203. Rabe, Blee and Ayers each show a boot with a second end, but none expressly discloses providing its second end with a chamfer. In col. 2, lines 6-9, Goldowsky teaches providing the end of a boot with a chamfer 26 in order to facilitate inserting boot over another element. It would have been obvious to one of ordinary

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skill in the art at the time of the invention to modify the boot in any one of Rabe, Blee and Ayers by providing the second end of the boot with a chamfer similar to that of Goldowsky in order to facilitate inserting boot over a another element (e.g. an interconnecting shaft) as taught by Goldowsky.

### *Response to Arguments*

11. Applicant's arguments filed August 28, 2007 have been fully considered but they are not persuasive. Applicant argues that the prior fails to anticipate the claims because it fails to disclose an interconnecting shaft with a circumference that is greater than that of the inner cavity of the boot. However, the claim invention does not include an interconnecting shaft, so the prior art does not need to show such a shaft in order to anticipate the claims. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

### *Conclusion*

12. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

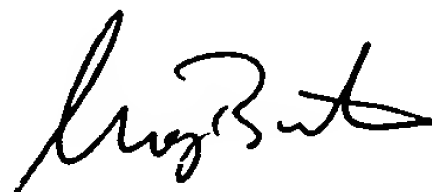
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will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Greg Binda whose telephone number is (571) 272-7077. The examiner can normally be reached on M-F 9:30 am to 7:00 pm with alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on (571) 272-7087. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Greg Binda  
Primary Examiner  
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